

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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IN RE:

ETHEL ELDER,

PLAINTIFF,

vs.

SIMM ASSOCIATES, INC.,

DEFENDANT.

CASE NO:

2:06 CV 895-1D

JURY DEMAND

**COMPLAINT**

**I. INTRODUCTION**

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 ("FDCPA").

2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

**II. JURISDICTION AND VENUE**

4. Jurisdiction arises under 15 U.S.C. § 1692k and 28 U.S.C. § 1337.

5. Subject matter jurisdiction is proper in that the acts fall within 15 U.S.C. § 1692 (Fair Debt Collection Practices Act) which presents a federal question. Venue before this Court is proper in that the violations occurred here.

**III. PARTIES**

6. Plaintiff, Ethel Elder, is a consumer residing in the State of Georgia.

7. Defendant, SIMM Associates, Inc., (hereinafter, "SIMM") is a debt collector firm with a regular place of business located in Newark, Delaware.

8. SIMM regularly engages in the collection of consumer debts using the mail and telephone.
9. SIMM regularly attempts to collect consumer debts alleged to be due another.
10. SIMM is a "debt collector" as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

#### **IV. STATEMENT OF CLAIM**

11. On or about November 15, 2005, Defendant, SIMM, mailed a collection notice to the Plaintiff at 703 ML King Drive, Troy, Alabama 36081. The collection letter sought to collect an alleged consumer debt. A copy of the collection notice is appended hereto as Exhibit "A."

12. The November 15, 2005, letter states "It has become necessary for this office to conduct a thorough investigation with regard to your assets and property ownership."

13. The November 15, 2005, letter further states "It is imperative that you contact this office upon receipt of this notice. Failure to comply will result in immediate commencement of this investigation."

14. The FDCPA prohibits a debt collector from using any false, deceptive, or misleading representations or means to collect or attempt to collect an alleged debt. 15 U.S.C. §§ 1692e and 1692e(10).

15. The FDCPA also prohibits a debt collector from threatening to take action which is not intended to be taken. 15 U.S.C. § 1692e(5).

16. The November 15, 2005, collection letter purporting to conduct a thorough investigation of Plaintiff's assets and property ownership was false, deceptive, and misleading in violation of the FDCPA.

17. Defendant, SIMM, would not and did not conduct such an investigation into Plaintiff's assets and property ownership.

18. Defendant's threat to conduct an asset and property ownership investigation was designed to deceive Plaintiff and to intimidate Plaintiff to pay the alleged account for fear of having some type of intrusive and overreaching investigation conducted into her personal affairs.

#### **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)**

19. Plaintiff, Ethel Elder, adopts and incorporates paragraphs 1 through 18 as if fully set out herein.

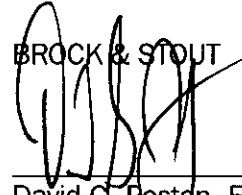
20. Defendant violated 15 U.S.C. §§ 1692e and 1692e(10) by sending a false, deceptive, or misleading communication to a consumer in connection with the collection of an alleged debt.

21. Defendant violated 15 U.S.C. § 1692e(5) by threatening to take action which was not intended to be taken.

**WHEREFORE,** Plaintiff, Ethel Elder, demands judgment against Defendant, SIMM Associates, Inc. for the following:

- a) Maximum statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k;
- b) Costs and reasonable attorney fees; and,
- c) Such other further relief as may be just.

Respectfully submitted,

  
BROCK & STOUT

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Michael D. Brock, Esq.  
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**EXHIBIT A**

P.O BOX 1139  
OAKS, PA 19456

3982L74222

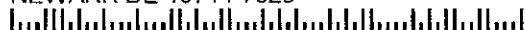
**SIMM ASSOCIATES, INC.**

SPRINGSIDE OFFICE PARK  
BIDDLE BLDG. STE. 200  
200 BIDDLE AVENUE  
NEWARK, DE 19702

\_\_\_ Opt-Out Notice (See back for details)

S-DNSIMM10 L-07 A-L74222  
P0088000700001 I00001  
ETHEL L ELDER  
703 ML KING DR  
TROY AL 36081-3642

SIMM ASSOCIATES, INC.  
P.O. BOX 7526  
NEWARK DE 19714-7526



Reference File No. : L74222

**Detach Upper Portion And Return With Payment**

November 15, 2005

CLIENT	BALANCE
Providian NA	\$1085.34

Dear ETHEL L ELDER,

It has become necessary for this office to conduct a thorough investigation with regard to your assets and property ownership.

It is imperative that you contact this office upon receipt of this notice. Failure to comply will result in immediate commencement of this investigation.

This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose.

Sincerely,

*Dee Blake*

Dee Blake  
Coordinator  
(800) 864-6033

Payments can be made via credit card or bankdraft at :  
[WWW.SIMMASSOCIATES.COM/PAYMENT.HTM](http://WWW.SIMMASSOCIATES.COM/PAYMENT.HTM)

**\*\*Please See Reverse Side For Important Information\*\***

